

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re JULIO R., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIO R.,

Defendant and Appellant.

D053545

(Super. Ct. No. J218-520)

APPEAL from a judgment of the Superior Court of San Diego County, Francis M.
Devaney, Judge. Affirmed.

After a contested juvenile court adjudication hearing, the court made a true finding that the minor, Julio R., had committed the felony offense of assault with a deadly weapon in violation of Penal Code¹ section 245, subdivision (a)(1). The minor appeals

¹ All further statutory references are to the Penal Code unless otherwise specified.

contending the evidence is not sufficient to support a finding that he aided and abetted another in the commission of an assault with a deadly weapon. We will reject that contention and affirm the judgment.

FACTS AND PROCEDURAL BACKGROUND

This appeal arises from a wardship petition in which the minor was charged with several offenses. He admitted a violation of section 241.2, subdivision (a) (attempting to injure another person while on school property). The court made a true finding on the charge of assault with a deadly weapon and the remaining allegations were dismissed.

Since the minor only challenges the true finding for the assault with a deadly weapon charge, we will omit any discussion of the other offense.

On June 29, 2008, the victim, Pablo Perez, was at his home in Escondido. At about 8:30 p.m., Perez heard someone smash a window in his truck. Perez went outside to investigate and observed two young men, the minor Julio R., and another minor later identified as G., running away from Perez's truck. G. had a bat in his hand.

Perez approached the two young men and asked why they had broken his window. G. responded, "What? You want trouble?" Perez responded that he did not want trouble, after which G. punched Perez in the face and struck him with the bat. The minor, Julio, was standing next to G. during the assault. Perez testified that during G.'s assault on him Julio was not only present with G., but whistled to summon additional young men who began throwing rocks at Perez.

DISCUSSION

The minor contends there is not sufficient evidence to support the trial court's finding that he was an aider and abettor in G.'s assault on Perez. We are satisfied the evidence is clearly sufficient to support the true finding.

When we review a claim that the evidence at trial is insufficient to support the trial court's finding, we apply the familiar substantial evidence standard of review. Under that standard we review the entire record to determine whether there is sufficient substantial evidence to support the trial court's decision. We do not make credibility decisions nor do we undertake to weigh the testimony of individual witnesses. In making our analysis we draw all reasonable inferences in favor of the trial court's decision. (*People v. Smith* (2005) 37 Cal.4th 733, 738-739; *People v. Kraft* (2000) 23 Cal.4th 978, 1053.)

A person aids and abets another in the commission of a crime when the person (1) with knowledge of the unlawful purpose of the perpetrator, (2) and with the intent or purpose of committing, facilitating or encouraging the commission of the crime, (3) by act or advice, aids, promotes, encourages or instigates the commission of the crime. (*People v. Beeman* (1984) 35 Cal.3d 547, 561.) In deciding whether one aids and abets another the trial court could consider the fact of the person's presence at the scene, flight and conduct before and after the crime. (*People v. Garcia* (2008) 168 Cal.App.4th 261, 273.)

While mere presence at the scene of a crime is not sufficient to prove aiding and abetting, it is a fact which can be considered, together with other conduct, to support an

inference that the person is there to assist and encourage another to commit a crime.

(*People v. Hodgson* (2003) 111 Cal.App.4th 566, 576-577.)

In the instant case the minor was not only present at the scene, but actively supported G. in his assault on the victim. The evidence shows that the minor was with G. at the time of the breaking of the truck window and that he ran away with G. when the victim came out of the house. The minor then accompanied G. when G. returned to confront and then assault Perez. It was the minor, Julio, who then summoned additional persons to assist in the assault when Perez had been knocked to the ground. The young men summoned by the minor then threw rocks at Perez.

Plainly, a rational trial judge could easily infer that the minor was intentionally acting together with G. in the vandalism of the truck, the first assault on Perez and provided support for the continued attack on the victim. The evidence is clearly sufficient to support the true finding in this case.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

O'ROURKE, J.

IRION, J.